

1 ICE CRYSTAL, LLC * BEFORE THE
2 PETITIONER * PLANNING BOARD OF
3 PLANNING BOARD CASE NO. 379 * HOWARD COUNTY, MARYLAND

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5 DECISION AND ORDER

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7 On April 12, 2007, the Planning Board of Howard County, Maryland, in accordance
8 with Sections 127.E.3 and 5 of the Howard County Zoning Regulations, held a public hearing to
9 consider the petition of Ice Crystal, LLC, for approval of an Amended Comprehensive Sketch
10 Plan (CSP), (SP-06-17), Cherrytree Park to implement the approved Amended Preliminary
11 Development Plan (PDP) per Zoning Board Case No. ZB-1042M on a property owned by the
12 Petitioner. The proposal is to amend certain elements of the original CSP including: the
13 following land use acreages, 12.413 acres of Residential land use, 10.473 acres of Employment
14 land use, 14.38 acres of Open Space land use and 3.812 acres of Other land use (public road
15 right-of-way); to amend the dwelling unit total, unit types and the land use designations of
16 particular areas to allow the addition of 127 age-restricted adult housing units; and to reflect a
17 change in use from all office employment use to a combination of office and age-restricted adult
18 housing in the Development Criteria as part of the overall 41.078 acre MXD-6 development
19 project. The subject property is located on the southeast corner of Maryland Route 216 at its
20 intersection with U.S. Route 29. The site is approximately 41.078 acres and is zoned "POR-
21 MXD-6" (Planned Office Research-Mixed Use Development). The property is identified as
22 Parcel No. 156 located on State Tax Map No. 46 and Grid No. 4 in the Sixth Election District of
23 Howard County, Maryland.

24 The Notice of Hearing was published and the subject property was posted in
25 accordance with the Planning Board's requirements, as evidenced by certificates of publication

1 and posting, all of which were made a part of the record in this case. Pursuant to the Planning
2 Board's Rules of Procedure, all of the reports and official documents pertaining to the petition,
3 including the petition and the Amended Comprehensive Sketch Plan, SP-06-17, the Technical
4 Staff Report of the Department of Planning and Zoning, the Howard County Code, the Howard
5 County Design Manual, the 2000 General Plan of Howard County, the Howard County Zoning
6 Regulations and Zoning Map, the Amended Fifth Edition of the Howard County Subdivision and
7 Land Development Regulations including the Forest Conservation Regulations and Manual, the
8 Howard County Landscape Manual, the Adequate Public Facilities Ordinance, and the plan
9 comments from the Subdivision Review Committee agencies were made part of the record in
10 this case.

11 **PLANNING BOARD HEARING**

12 The Chairperson opened the public hearing at approximately 7.45 p.m. and Kent
13 Sheubrooks of the Department of Planning and Zoning (DPZ) presented the Technical Staff
14 Report, which recommended approval of the Amended Comprehensive Sketch Plan subject to
15 compliance with all the Subdivision Review Committee (SRC) comments previously issued for
16 SP-06-17 to the developer by letter dated November 16, 2006.

17 **PETITIONER'S TESTIMONY**

18 The petitioner was represented by Mr. Richard Talkin of the law firm Talkin and Abramson, LLP,
19 attorney for the developer, Ice Crystal, LLC. Mr. Talkin acknowledged agreement with the DPZ
20 staff report recommendation and entered the following Petitioner's Exhibit No. 1 into the record
21 for this case, "Illustrative Preliminary Equivalent Sketch Plan of SP-06-17 for Cherrytree Park".
22 Mr. Talkin introduced the developer, Mr. John Liparini to testify and proceeded to ask him a
23 series of questions about the proposed Amended Comprehensive Sketch Plan. Mr. Liparini
24 acknowledged agreement with the DPZ staff report for the project. Mr. Liparini responded to a
25 series of questions from Mr. Talkin and acknowledged that the Amended CSP and Development

1 criteria are consistent with the Amended PDP approved by the Howard County Zoning Board.
2 Mr. Talkin and Mr. Liparini further explained that the Howard County Zoning Regulations at the
3 time did not permit the Petitioner's previous request before the Planning Board under ZB Case
4 No. 1042M for Alternative No. 2 (for 128 age-restricted adult housing units) to be approved.
5 However, since that previous Planning Board meeting, the Zoning Regulations were amended
6 under Council Bill No. 66-2005 to permit the Petitioner's request for approval of Alternative No.
7 2 for the Amended PDP to include bonus density units as approved by the Howard County
8 Zoning Board under per ZB Case No. 1042M. Mr. Liparini testified that the Zoning Board and
9 the surrounding community agreed that the Petitioner's request for Alternative No. 2 under ZB-
10 1042M was the best option for this project. Mr. Talkin concluded his presentation of the case by
11 stating that the developer has complied with all the Planning Board criteria requirements of the
12 Howard County Zoning Regulations for approving an Amended Comprehensive Sketch Plan.

13 There was no community opposition present at the public hearing to offer testimony in
14 this case.

15 Therefore, Ms. CitaraManis, Chairperson, closed the hearing at approximately 8:25
16 p.m. and proceeded to deliberate and vote on the case in open session. The Planning Board
17 members in attendance motioned for a vote in this case.

18 After careful evaluation of all of the testimony and information presented at the
19 hearing, the Howard County Planning Board made the following Findings of Fact and
20 Conclusions of Law.

21 22 FINDINGS OF FACT

23 1. This project is subject to compliance with the Amended Fifth Edition of the Howard County
24 Subdivision and Land Development Regulations including the Forest Conservation Regulations
25

1 and the Manual, the Landscape Manual, the Howard County Zoning Regulations and Zoning
2 Map, the Design Manual and the Adequate Public Facilities Ordinance.

3 2. The developer proposes an addition of 127 age-restricted adult housing units on Parcel "I" of
4 the subject property and a reduction of the previously approved square footage devoted to
5 "Office Space" use from 201,500 to 30,000 in order to implement the approved Amended
6 Preliminary Development Plan (PDP) for the Petitioner's Alternative No. 2 per Zoning Board
7 Case No. ZB-1042M. The developer proposes the construction of eight 4-story residential
8 condominium buildings with seven buildings containing 16 units each and one building
9 containing 15 units and a community center. Also, one 3-story office building is proposed on
10 Parcel "J" to contain 30,000 square feet of office space.

11 3. The developer proposes to amend certain elements of the original CSP including changes to
12 items such as the land use acreages and percentages, the dwelling unit total and unit type
13 distribution, employment floor area totals as referenced above and minor revisions in the
14 Development Criteria to incorporate "Universal Design Standards" and bulk regulations
15 (minimum building setbacks, maximum building height, etc.) for the age-restricted adult housing
16 units.

17 4. The proposed amendment makes no change to the existing 10,602 square feet of "Retail"
18 uses or the existing 10 SFD dwelling units and the 160 SFA dwelling units previously approved
19 and constructed under previous approved plans.

20 5. The developer proposes certain changes in the existing approved Development Criteria to
21 implement the Amended PDP and CSP to establish bulk regulations and "Universal Design
22 Standards" for the "Age-Restricted Adult Housing Units".

23 6. The proposal satisfies all of the Planning Board Criteria established in Section 127.E.4 of the
24 MXD Zoning District Regulations as follows:

1 a. The Amended CSP and Development Criteria are consistent and meet the intent of the
2 approved Amended PDP per ZB Case No. 1042M.

3 b. The Amended CSP is consistent with the proportions of land uses, densities and intensities
4 of development required per Section 127.C of the Howard County Zoning Regulations and the
5 Amended PDP approved per ZB Case No. 1042M.

6 c. The phasing of development for the Amended CSP is consistent with the phasing schedule
7 approved with the Amended PDP per ZB Case No. 1042M. All General Plan road improvements
8 needed for the ultimate development of the Cherrytree Park MXD-6 project have been
9 completed.

10 d. Based on the amended "Traffic Impact Analysis" submitted with the Amended PDP dated
11 November 22, 2005 and the amended "APFO Roads Test" dated October 18, 2006 submitted
12 for the Amended CSP, it was determined by the Department of Planning and Zoning that
13 capacity and mitigation standards of the Adequate Public Facilities Ordinance (APFO) have
14 been met and that roads serving this MXD project will be adequate.

15 e. The pedestrian circulation system included with the Amended CSP will provide convenient
16 pedestrian access between the various employment, residential, commercial, public and open
17 space land uses areas.

18 f. The open space system within this Amended CSP creates a cohesive internal network, which
19 will link the various land uses and community amenities within the project and whenever
20 possible, connect to the existing and planned open spaces adjoining the development. The
21 site's natural features and required environmental buffers will be protected and enhanced
22 through inclusion and protection within the project's open space areas. Community open space
23 areas will be accessible throughout the development suitable for both active and passive
24 recreational areas for residents and employment use areas. More than 10% of the gross open
25 space area for this development will be useable for active and passive recreational facilities.

1 g. The Amended CSP makes effective use of the methods described under Section 127.D.7.1 of
2 the Howard County Zoning Regulations to ensure compatibility with adjoining land uses outside
3 the development.

4 h. The Amended CSP and Development Criteria will result in appropriate relationships between
5 the land uses within the Cherrytree Park MXD-6 development.

6 i. The Zoning Board, in its Decision and Order approving the Amended PDP under ZB Case
7 No. 1042M determined that adequate land in appropriate locations for community parks and
8 recreational facilities will be provided for public facilities for this project.

9 7. The Planning Board accepts the Department of Planning and Zoning's evaluation of the
10 petition as provided in the Technical Staff Report.

11 12 CONCLUSIONS OF LAW

13 The Amended Comprehensive Sketch Plan, SP-06-17, satisfies all of the standards for
14 approval of a Comprehensive Sketch Plan as provided in Sections 127.E.3 and 5 of the
15 Howard County Zoning Regulations for the reasons stated in the Department of Planning and
16 Zoning's Technical Staff Report.

17 For the foregoing reasons, the petition of Ice Crystal, LLC, for approval of an Amended
18 Comprehensive Sketch Plan to amend certain elements of the original CSP including: the
19 following land use acreages, 12.413 acres of residential land use, 10.473 acres of
20 Employment land use, 14.38 acres of Open Space land use and 3.812 acres of Other land use
21 (public road right-of-way); to amend the dwelling unit total, unit types and the land use
22 designations of particular areas to allow the addition of 127 age-restricted adult housing units
23 and 30,000 square feet of office space; and to reflect a change in use from all office
24 employment use to a combination of office and age-restricted adult housing in the
25 Development Criteria as part of the overall 41.078 acre MXD-6 development project located in
the Sixth Election District of Howard County, Maryland, is this 10th day of May, 2007
APPROVED by the Planning Board of Howard County, subject to the following condition:

1. The Planning Board shall reserve the right to review and approve site development plans submitted for all age-restricted adult housing units, and all employment use development for the subject Cherrytree Park project.

HOWARD COUNTY PLANNING BOARD

Tammy Citara Manis – Chairperson

David Grabowski – Vice-Chairperson

ABSENT

Linda A. Dombrowski

Gary Rosenbaum

Ramsey Alexander, JR.

ATTEST:

Marsha McLaughlin
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:
HOWARD COUNTY OFFICE OF LAW
MARGARET ANN NOLAN
COUNTY SOLICITOR

Paul Johnson
Deputy County Solicitor

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LIST OF APPLICANT'S EXHIBITS

PB-379 (SP-06-17), CHERRYTREE PARK

1. Illustrative Preliminary Equivalent Sketch Plan, SP-06-17 for Cherrytree Park

LIST OF PROTESTANT'S EXHIBITS

None were introduced.